

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE
MIDDLE DISTRICT OF ALABAMA, NORTHERN DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	CRIMINAL ACTION NO.
)	2:07cr285-MHT
TOMMY JORDAN)	(WO)

OPINION AND ORDER

This case is before the court on defendant Tommy Jordan's motion to continue. For the reasons set forth below, the court finds that jury selection and trial, now set for September 22, 2008, should be continued pursuant to 18 U.S.C. § 3161(h)(8).

While the granting of a continuance is left to the sound discretion of the trial judge, United States v. Stitzer, 785 F.2d 1506, 1516 (11th Cir. 1986), the court is limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Act provides in part:

"In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs."

§ 3161(c)(1). The Act excludes from the 70-day period any continuance based on "findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial." § 3161(h)(8)(A). In granting such a continuance, the court shall consider, among other factors, whether the failure to grant the continuance "would deny counsel for the defendant ... the reasonable time necessary for effective preparation, taking into account the exercise of due diligence." § 3161(h)(8)(B)(iv).

The court concludes that, in this case, the ends of justice served by granting a continuance outweigh the interest of the public and Jordan in a speedy trial. Jordan needs more time to prepare his defense effectively. This case involves complicated issues of income tax preparation, and he has been furnished with hundreds of pages of discovery information. Additional discovery information was recently given to him, and, in order to effectively prepare a potentially complicated defense, he needs more time to examine these new materials fully. The government has no objection to this request for continuance.

Accordingly, it is ORDERED as follows:

(1) Defendant Tommy Jordan's motion for continuance (doc. no. 22) is granted.

(2) The jury selection and trial, now set for September 22, 2008, are reset for January 5, 2009, at 10:00 a.m., in Courtroom 2FMJ of the Frank M. Johnson

Jr. United States Courthouse Complex, One Church
Street, Montgomery, Alabama.

DONE, this the 26th day of August, 2008.

/s/ Myron H. Thompson
UNITED STATES DISTRICT JUDGE